



**Maryland Commission on Artistic Property
*Semi-Annual Meeting***

**Maryland State Archives
Annapolis, MD**

May 12, 2014 at 10:00 am

Meeting Minutes [DRAFT]

Call to Order by the Chair

Mr. Matthew P. Lalumia called the meeting to order at 10:00am.

Present were:

Commission Members:

Matthew P. Lalumia, Esq., Chairman

Barbara Fegley, Associate Registrar, The Walters Art Museum (representing Julia Marciari-Alexander)

Alan Fern, Director, The National Portrait Gallery, Retired

Melanie Harwood, Senior Registrar, The Baltimore Museum of Art (representing Doreen Bolger)

Burt Kummerow, President, Maryland Historical Society

Julia Madden, Board member, Maryland Citizens for the Arts

Erik Neil, Director, Academy Art Museum

Susan Perrin, Susan Perrin Art Consulting

Joseph Ruzicka, Art Appraiser, Department of the Treasury

Winston Tabb, Sheridan Dean of University Libraries and Museums, Johns Hopkins University (representing Jeffrey Sharkey)

Special Guest

Jacqueline O'Regan, Curator of Cultural Properties, Johns Hopkins University

Archives' Staff:

Tim Baker, Acting State Archivist

Elaine Rice Bachmann, Director of Artistic Property, Exhibits and Outreach

Sasha Lourie, Curator

Christopher Kintzel, Registrar

Michelle Fitzgerald, Research Associate

Opening Remarks

- Mr. Lalumia recognized the upcoming retirement of Fred Lazarus, longtime president of the Maryland Institute College of Art, and thanked him for his work with the Commission. Mr. Lourie commended Mr. Lazarus for his commitment to the conservation of the plaster casts in the Peabody Art Collection.

Minutes of Previous Meeting

- Mr. Fern made a motion to approve the minutes from the previous meeting of the Commission on November 19, 2013, which was seconded by Mr. Tabb, and approved by the Commission. The approved minutes were signed by the Chairman and the Registrar.

Staff Activities

- Ms. Bachmann highlighted an exhibition of portraits of former comptrollers that Archives and Commission staff installed in the Comptroller's assembly room. The exhibit features black and white photographs of all but two comptrollers who have served in the office since the 1850s. Mr. Lourie noted the partnership between the Archives and the Office of the Comptroller has already led to one potential portrait donation to the state-owned collection.

Recent and Upcoming Loans

- Mr. Lourie discussed the recent opening of the National Gallery of Art's exhibit *Degas/Cassatt*. He noted that the *Portrait of Madame J (Young Woman in Black)* [MSA SC 4680-10-0010] is, for the first time, displayed next to the Degas fan depicted in the portrait.
- Mr. Bachmann noted that the Thomas Sully's *Sarah Esther Hindman in the Character of Little Red Riding Hood* [MSA SC 4860-10-0096] is featured on promotional billboards in San Antonio.

Curator's Report

- Mr. Lourie reported on the conservation partnership between the Archives, the Friends of the Maryland State Archives, the Baltimore Museum of Art and frame specialist Eli Wilner. Over a roughly four-month period, conservators at Eli Wilner worked to restore the magnificent Stanford White frame for Thomas Dewing's *Lady with a Fan* [MSA SC 4680-10-0233]. The reframed painting will be exhibited when the BMA's new American Wing galleries open in late 2014.
- Mr. Lourie provided an update on several paintings and frames being conserved as part of the restoration of the Old Senate Chamber. He highlighted the ongoing restoration to Edwin White's *Washington Resigning his Commission* [MSA SC 1545-1112] and its original frame by Baltimore artisan Samson Cariss. He explained that the size of the work limited the number of previous attempts to restore it. The last significant conservation of the canvas occurred in 1981, and previous treatments were undertaken in 1959 and 1969. The frame underwent minor conservation in 1981, but it has been more than 50 years since it received

significant work. Both conservation treatments have revealed a number of new discoveries, and the work will be completed by December 2014.

- Mr. Lourie discussed the ongoing conservation of Charles Willson Peale's *Washington, Lafayette and Tilghman at Yorktown* [MSA SC 1545-1120]. He explained that staff compiled all known restoration campaigns of the portrait, revealing one by Rembrandt Peale in the 1820s and at least seven different restorations in the 20th century. He thanked archives staff from the Walters Art Museum for helping to locate before-treatment and after-treatment photographs taken when the painting was restored at the museum in 1933.

Director's Report

- Ms. Bachmann discussed the ongoing restoration of the Old Senate Chamber. She noted the project remains on schedule to open at the end of 2014. She provided several updates on the construction, including the restoration of the original niche, exhibit design, and creation of a bronze statue of George Washington by StudioEIS.
- Ms. Bachmann announced that the FY2015 budget included \$50,000 for conservation of the art collection. She suggested the appropriation, the first in several years, represented a new positive direction in ensuring annual funding for the long-term care of the collection.
- Mr. Baker reported that the Archives was extremely close to purchasing a new archival storage building. The facility, an existing warehouse in the Baltimore area, will accommodate approximately 140,000 square feet of storage, enough to allow the consolidation of all records presently stored in three rented storage facilities. He expressed confidence that the sale will be completed in September, and the transfer of all records finished by the end of 2014.

Old Business:

- Inventory Control Policies and Procedures
 - Mr. Kintzel reported that the FY 2014 collection inventory was underway, and was being done in conformance with the procedures set forth in the Inventory Control Manual [ICM] that had been approved by the Commission in 2013. A discussion about specific points in the ICM ensued, with members making the following recommendations:
 1. Confirm that Commission records are saved in perpetuity
 2. Thefts and losses should be reported to the Art Loss Register
 3. Commission staff should develop a policy for notifying the Commission if something is declared lost or missing.
- Review of the Collections Management Policy
 - Mr. Kintzel presented the proposed revisions to the Collections Management Policy [CMP]. A general discussion was held, with members making the following recommendations:
 1. Remove references to collection numbers in the scope of collections.
 2. Clarify the roles of the independent experts during the deaccession process. Mr. Lourie presented a recommendation from Mr. Cantelon

that the experts, if required, be consulted by the staff after the staff review and before the engagement of the Collections Advisory Committee. He indicated the experts were only to be consulted when appropriate rather than as a part of every proposed deaccession.

3. Clarify that lost objects are deaccessioned on a case-by-case basis.
 4. Define “deposit” in glossary to delineate differences between a “loan.”
- Following those recommendations, Mr. Fern made a motion to approve the draft CMP with the noted modifications, which was seconded by Mr. Tabb, and approved by the Commission.
 - Peabody Art Collection Questions of Ownership
 - Mr. Lalumia introduced the outstanding ownership questions relating to the Peabody Art Collection, a topic that had previously been considered by the Collections Advisory Committee (CAC) at a March 2014 meeting. In regards to the ownership and disposition of the objects, he noted that of the 27 items on the agenda, there were only two items, a pair of medieval manuscripts, where the recommendations of the Commission staff did not align with those of CAC. He noted that the CAC had recommended the manuscripts be returned to Johns Hopkins University/Peabody Institute (JHU/PI), while the staff had recommended the items remain state-owned and be loaned to JHU/PI. He expressed optimism that consensus on all 27 items could be reached during the meeting. Before opening a discussion, he invited Mr. Fern, as the selected chair of the CAC, and Mr. Lourie to explain their recommendations.
 - Mr. Fern provided an update on the March meeting of the CAC. He noted that the CAC agreed with all but two of the staff recommendations, specifically those that dealt with the manuscripts. It was the opinion of the CAC that the manuscripts did not fit within the scope of the art collection (in type and use), and should not be considered state-owned property. He further noted that the staff recommendation of a renewable two-year loan imposed an unreasonable condition for the JHU/PI staff, which would need to work with Commission staff every few years to process a loan renewal.
 - Mr. Lourie explained that the staff recommendations were done with great deliberation, and treated the all 27 independently, but with recognition of the fact they were all, in some ways, intertwined with each other. He explained the staff, led by Mr. Kintzel, had meticulously reviewed the original sale contract, signed by the Maryland Board of Public Works (BPW) in June 1996, the contact inventory of 297 catalogue entries, and a large body of correspondence between MSA and JHU/PI staff in the months surrounding the transfer of the collection to the state. He noted that the entire process of identifying the scope of the PAC, determining value, and refining the final inventory was a collaborative process that went back to the initial leadership

of Lt. Governor Melvin Steinberg in the 1980s, and included significant discussions between curatorial and legal staffs of both institutions.

- Mr. Lourie indicated the staff concluded the most important document regarding ownership of the PAC was the final sale contract and the inventory, known as Appendix A. This document became the benchmark for identifying which items formally transferred custody upon approval by legal staffs of both institutions, and the signatures by the BPW. Thus, if an object appeared on the sale contract, it belonged to the state; if not on the contract, it remained property of JHU/PI. This rationale guided the staff recommendations that were presented to the CAC and Commission. In the case of the manuscripts, it led the staff to conclude they belonged to the state and were part of the state-owned art collection.
- Mr. Lourie and Mr. Fern discussed their differing opinions on the meaning of a fax sent from JHU/PI to MSA on June 6, 1996. The fax enumerated a variety of objects to be discussed by MSA and JHU/PI. MSA's copy contains handwritten annotations based on a series of conversations, internal and with JHU/PI. Mr. Fern was of the opinion the fax was a formal request to remove the manuscripts from the sale contract that the state "ignored." Mr. Lourie contended the fax was an internal working document, rather than a formal request, and that it was a collaborative document. He noted that the manuscripts were not the only items listed on the fax that were not removed from the contract inventory.
- A lengthy discussion regarding the manuscripts ensued. Mr. Neil inquired about the relevance of 13th century manuscripts in the state's collection. Ms. Bachmann noted several concerns about justifying relevance when discussing the PAC, and that a deaccession on the grounds of relevance to the mission could set a dangerous precedent for future proposed deaccessions. She noted the staff disagreed with the CAC recommendation for deaccession, particularly because the justification was that the manuscripts could "be better served by ownership elsewhere."
- Mr. Tabb posited that mistakes were made "on all sides," and Mr. Lalumia questioned whether all parties agreed that a mistake had been made at the time. Ms. O'Regan explained that the archivist of the Peabody did not consult staff at the George Peabody Library. Mr. Fern suggested that the manuscripts never should have been added to the list that was given to the state, and that the state specifically declined to remove them from the list. Mr. Baker indicated the manuscripts belong to the state by virtue of a sale contract. He noted that while he was not averse to seeking a solution, he took exception to the assertion the objects did not belong to the state.
- Mr. Lalumia proposed a motion to "approve the recommendations on the 25 objects where there was no disagreement between Commission staff and CAC, and immediately instruct the staff to give physical custody of the books

to JHU/PI as a loan so the manuscripts could be accessible by students and scholars." This motion was seconded by Mr. Ruzicka, and then discussed by the Commission. Mr. Tabb asked for immediate resolution of the matter, and Mr. Lalumia noted that many Commission members were not present at the meeting. Mr. Lourie expressed his support for a two-year renewable loan as the industry standard for long-term loans, an idea that was supported by Ms. Harwood and Ms. Fegley. Mr. Lalumia indicated a clear need for additional legal advice and clarification on several points, and amended his proposed motion to "have the matter of the two manuscripts return to the Commission agenda as old business at the next meeting." This revised motion was approved unanimously by the Commission. Following the vote, Mr. Lalumia instructed the Commission staff to follow up with Ms. O'Regan regarding a long-term loan. Mr. Tabb indicated he would contact JHU/PI legal council to discuss the "ramifications" of a potential two-year loan.

New Business:

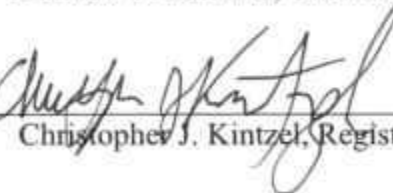
- Mr. Lourie presented four potential acquisitions for consideration. He noted that all four proposed acquisitions [portrait of Dr. Edward C. Papenfuse, portrait of Comptroller J. Frank Turner, and two watercolors by Richard Schlecht] had previously been considered and approved by the Collections Advisory Committee. Mr. Fern made a motion to approve all potential acquisitions, which was seconded by Mr. Kummerow, and approved by the Commission.
- Ms. Bachmann noted that the portrait of Dr. Edward C. Papenfuse would be unveiled at the Maryland Historical Society on June 5, 2014.
- Mr. Lalumia closed the meeting by announcing the two manuscripts would be discussed as old business at the fall 2014 meeting.

Adjournment:

- Mr. Lalumia adjourned the meeting at 12:35 PM

Approved by the Commission on Artistic Property, November 5, 2014


Matthew P. Lalumia, Chairman


Christopher J. Kintzel, Registrar